

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of	}	File No. EB-08-TC-5708
Think 12 Corporation d/b/a Hello Depot		NAL/Acc. No. 201032170826
Apparent Liability for Forfeiture		[28 U.S.C. §1447(c)]
		FRN: 0010729283

PETITION FOR RECONSIDERATION

Pursuant to 47 U.S.C. § 405 and 47 C.F.R. § 1.106, Think12 Corporation, doing business as “Hello Depot” (the “Petitioner”), hereby submit this petition for reconsideration (this “Petition”) requesting that the Federal Communications Commission (“FCC”) reconsider its Order of Forfeiture (the “Order”), adopted and released by the Commission on February 25, 2011, assessing a monetary forfeiture of twenty thousand dollars (\$20,000) against the Petitioner for, allegedly, willful or repeated violation of section 222 of the Communication Act of 1934, as amended (the “Communications Act” or “Act”), section 64.2009(e)¹ of the Commission’s rules,² and the Commission’s EPIC CPNI Order by failing to timely file an annual compliance certification with the Enforcement Bureau (“Bureau”) for calendar year 2007 on or before March 1, 2008.

I. Introduction and Background

The Petitioner is a telecommunications carrier located in Itasca, Illinois, providing resold interexchange services. As a telecommunications carrier, the Petitioner is subject to the rules and jurisdiction of the Commissioner. Section 64.2009(e) of the Commission’s rules requires telecommunications carriers such as the Petitioner to file annually before March 1st a CPNI compliance certification

¹ 47 U.S.C. § 222.

² 47 C.F.R. § 64.2009(e).

signed by an officer of the carrier³. It has not been disputed that the Petitioner failed to comply with such CPNI filing requirement under the rules of the Commissioner by failure to timely file 2007 CPNI compliance certification. Based on such failure to comply with the CPNI filing requirement, the Commissioner issued the Order on February 25, 2011, imposing a monetary forfeiture of \$20,000.

When issuing the Order, the Commissioner relied on several considerations, including, *inter alia*, the following: (1) the Petitioner did not demonstrate an inability to pay the proposed forfeiture in the amount of \$20,000; (2) the Petitioner failed to show it had complied with the certification filings under the its own rules (thus, ignorance of the law is not a mitigating factor); and (3) the Petitioner's history of non-compliance with the Commissioner's rules did not support its argument for a downward adjustment.

II. Discussion

As discussed above, the Petitioner requests the Commissioner to reconsider the Order which imposes forfeiture in the amount of \$20,000, by filing this Petition pursuant to 47 U.S.C. § 405 and 47 C.F.R. § 1.106. While not disputing the Petitioner's failure to timely comply with the filing requirement of CPNI compliance certification, the Petitioner hereby requests the Commissioner to reconsider the amount of the forfeiture under the Order and, thus, reduce the amount for the reasons set forth below.

1. The Petitioner's Inability to Pay

The Petitioner has suffered financial difficulties, which is not an unusual situation in the Petitioner's industry. The Petitioner is a so-called "competitive local exchange carrier" ("CLEC"). CLEC is a dying breed. Dramatic fall in numbers of CLECs in the United States supports this. The Petitioner suspects that general business profit model of most CLECs were and are heavily dependent on

³ 47 C.F.R. § 64.2009(e).

government's policy and regulations. The Petitioner is not an exception. This claim, of course, is not a trivial matter to prove. However the fact remains: something contributed in significant fall of number of CLECs in recent years, which shows the financially-suffering environments surrounding CLECs in general. The Petitioner has managed to survive thus far, and intends to continue and prosper in its business.

The Petitioner has been reporting losses in income tax report since 2003 and this trend is expected to go on for next couple of years. In addition to the forfeiture amount of \$20,000, the Petitioner has roughly \$100,000 liability towards the Commissioner outside of the Order. Such amounts are devastating for and serious threat to existence of the Petitioner.

By holding the Petitioner's liabilities in the Order, the Commissioner pointed out the fact that the Petitioner failed to submit the recent tax returns, in addition to those for years 2004, 2005 and 2006. In response to the Commissioner's request pursuant to the *Omnibus NAL*⁴, the Petitioner will submit the recent tax returns for years 2007, 2008 and 2009, and hopes the Commissioner consider the Petitioner's financial status as a mitigating factor.

The Petitioner, a financially suffered CLEC, diligently complies with the Commissioner's request to further submit the recent tax returns, which show the Petitioner's financial inability to pay under the current circumstance, separately through electronic mail to the Commissioner. The Petitioner wishes the Commissioner to consider the Petitioner's inability to pay because it submits or will submit the tax returns pursuant to the *Omnibus NAL*.

2. The Petitioner's Compliance with the Earlier Certification Requirement

⁴ *Omnibus NAL*, 24 FCC Rcd. At 2304, ¶ 16.

The Petitioner, which admits its failure to comply with the CPNI compliance certification filing requirements, has complied with the earlier certification requirement under its own rules, even if such compliance may not be perfect. Since inception of the business in 2003, the Petitioner has been carrying out its own policies strictly and carefully dealing with its customers' information, including call-detail, name, address, payment information (e.g., credit card information) and other confidential information. Even if it failed to notice and educate itself with respect to the specific rules and the filing requirements thereunder, the Petitioner has believed that such confidentiality policies are the most fundamental business ethics, which it values in utmost ways. Attached is the Petitioner's internal manual on the customers' information and confidentiality.

The internal manual shows the Petitioner has carefully handled the customers' information, which the CPNI rules ultimately intend to achieve. While ignorance of law is not a defense, existence of such policies and implementation thereof may be one of the mitigating factors the Commissioner may take consideration into because the Petitioner has *de facto* protected its customers' information even if it failed to comply with the CPNI filing requirements.

3. The Petitioner's History of No Prior Complaint per Misuse or Mishandling of Customer Information

The Petitioner has *de facto* protected its customers' information by implementing the pertinent policies, which results in the Petitioner's clean records with respect to customers compliant on customer information handling or confidentiality issues. The Commissioner "shall take into account . . . with respect to the violator, any history of prior offenses"⁵ In the Order, the Commissioner has relied on the fact that the Petitioner has prior non-compliance history.

The Petitioner does not dispute the fact that it has history of non-compliance arising from or related to other issues. Importantly, however, the Petitioner has no

⁵ 47 U.S.C. § 503(b)(2)(2)(E) (emphasis added).

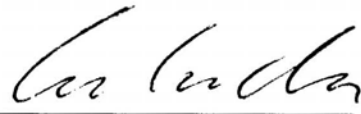
records of customer complaint on improperly handling its customers' information nor history of related violation. The Petitioner requests the Commissioner to consider this prior clean history on customer information matters as a mitigating factor.

III. Conclusion

The Petitioner, which has failed to comply with all the rules of the Commissioner, is not a purely perfect compliant of the rules, and it does not dispute its previous mistakes despite of its efforts. It also failed to properly understand the Commissioner's request prior to issuance of the Order. The prior communication through its counsel was not the most efficient communications, which resulted in the Petitioner's failure to timely provide the information requested by the Commissioner. Having that stated herein, however, the Petitioner hereby requests the Commissioner to consider certain mitigating factors and, thus, reduce the amount of the forfeiture under the Order.

The Petitioner has suffered financial difficulties. As it may reasonably find from the tax returns of the Petitioner, the Commissioner may find the forfeiture amount will substantially and adversely affect the business of the Petitioner. The Petitioner has substantially served the intent of the CPNI related rules, even if it failed to perfectly comply with such rules. It protected its customers' information very seriously. Finally, the Petitioner's history of no customer complaint on customers' information related issues show it has accomplished one of the most important goals of the filing requirement of the CPNI compliance certification. Thus, the Commissioner may consider such above-explained factors as mitigating factors and, thus, reduce the forfeiture amount.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jeom H. Lee', written in a cursive style.

Jeom H. Lee

President

Think 12 Corporation

“Petitioner”